

**IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Aero Products International, Inc., a Florida
corporation, and Robert B. Chaffec, an
individual,

Plaintiff,

vs.

Intex Recreation Corp., a California
corporation, Quality Trading, Inc., a California
corporation, and Wal-Mart Stores Inc., a
Delaware corporation,

Defendants.

Case No.: 02 C 2590

Judge John W. Darrah

Magistrate Judge Geraldine Soat Brown

**DECLARATION OF ANTHONY M. MASTRANGELO IN CONNECTION WITH
MEMORANDUM OF DEFENDANT INTEX RECREATION CORP REGARDING
PROPRIETY OF LETTER OF CREDIT.**

I, Anthony M. Mastrangelo, do hereby declare as follows:

1. I am Vice President and Manager of the International Department of American Business Bank located in Los Angeles, California. I have been involved in international finance and banking for over twenty-two years. Prior to my employment with American Business Bank, I was employed by Lloyds Bank and, thereafter, Sanwa Bank in Los Angeles, California in their international departments. Part of my responsibilities with American Business Bank includes the preparation and issuance of standby letters of credit and I am very familiar with their use both domestically and internationally. In addition to the foregoing, I presently teach a course on Trade Finance at Santa Ana College in Santa Ana, California and am an

adjunct faculty member at the University of Phoenix where I teach a course on International Business Management.

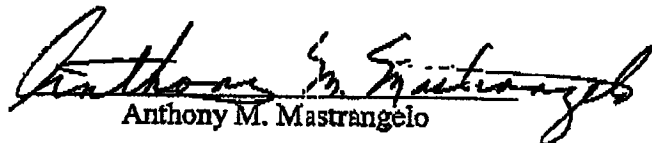
2. I have been asked by the attorneys representing Intex Recreation Corp. to provide a declaration regarding the nature and effect of standby letters of credit as well as my familiarity with HSBC, which I understand to be the bank that issued the letter of credit that Intex Recreation Corp has posted with the Court. My bank does not have any relationship with Intex Recreation Corp. and we do not have any affiliation with HSBC.
3. Initially, when a bank issues a standby letter of credit, which is an irrevocable obligation, it is not a party to the underlying contract or agreement that may require the letter of credit. The bank is a "payment vehicle," and will pay based on the conditions set forth in the standby letter of credit. In addition, under Article 15 of the *Uniform Customs and Practice for Documentary Credits* of the International Chamber of Commerce ("UCP500), the issuing bank assumes no liability or responsibility for the form, sufficiency, accuracy, genuineness, falsification or legal effect of any documents and will take any documents that appear on their face to be genuine. The UCP500 governs international letters of credit and I understand that the letter of credit here states that it is to be governed by UCP500.
4. I understand there is a concern regarding the applicant for the letter of credit. This should be of no concern to the beneficiary, as the letter of credit itself becomes the sole obligation of the bank that issues it.
5. There is legal recourse against any bank in the U.S. or otherwise if they do not honor their obligations. Generally, three things must occur for payment to be effected: (1)

There is a draft, that is the request for payment against which the bank pays; (2) the original letter of credit is presented; and (3) a simple statement is provided, as stated in the body of the letter of credit, which explains the reason for the drawing. In the case of a letter of credit issued by a foreign bank, the letter of credit may be presented to a bank in the United States for payment, which will then, in conformance with the terms of the letter of credit itself, forward it to the issuing bank. It is inconceivable to me that a foreign bank would simply refuse to honor a letter of credit without any basis as such would affect its ability to transact any business in the United States or elsewhere.

6. This is particularly true with respect to HSBC that is one of the world's largest financial institutions. HSBC is listed in *Thomson's Bank Directory* which is a resource used by all U.S. banks to ascertain the size and viability of both foreign and domestic banks. From my review, I understand that Hong Kong Shanghai Banking Corporation in Hong Kong has \$239.6 billion in assets and over 27,500 employees, with correspondent banks globally. In addition, the parent of HSBC recently acquired a well-known domestic bank, Marine Midland Bank in New York. I would not hesitate to accept a letter of credit from HSBC in the millions of dollars.

Executed this 17th day of November in Los Angeles, California.

I declare under penalty of perjury and pursuant to the laws of the United States that the foregoing is true and correct.


Anthony M. Mastrangelo